

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

KEVIN CLAY,

Plaintiff,

Case No. 3:16-cv-135

vs.

ADECCO USA,

Defendant.

District Judge Thomas M. Rose

Magistrate Judge Michael J. Newman

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**REPORT AND RECOMMENDATION<sup>1</sup> THAT THIS CASE BE: (1) DISMISSED FOR FAILURE TO PROSECUTE; AND (2) TERMINATED ON THE COURT'S DOCKET**

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This *pro se* civil case is before the Court following issuance of an Order directing Plaintiff to Show Cause as to why this case should not be dismissed for failure to prosecute. On May 8, 2017, *pro se* Plaintiff failed to participate in a duly scheduled discovery status conference by telephone. As a result of *pro se* Plaintiff's failure to participate, the Court issued the aforementioned Order to Show Cause and notified Plaintiff that his failure to respond to the Order may result in dismissal of the case for failure to prosecute. *Pro se* Plaintiff did not respond to the Order to Show Cause and the time for doing so has expired.

In light of *pro se* Plaintiff's failure to prosecute this litigation as set forth above, the undersigned **RECOMMENDS** that this case be: (1) dismissed under Fed. R. Civ. P. 41(b) for failure to prosecute; and (2) this case be **TERMINATED** on the Court's docket.

Date: May 23, 2017

s/ Michael J. Newman  
Michael J. Newman  
United States Magistrate Judge

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendation. This period is not extended by virtue of Fed. R. Civ. P. 6(d) if served on you by electronic means, such as via the Court's CM/ECF filing system. If, however, this Report and Recommendation was served upon you by mail, this deadline is extended to **SEVENTEEN DAYS** by application of Fed. R. Civ. P. 6(d). Parties may seek an extension of the deadline to file objections by filing a motion for extension, which the Court may grant upon a showing of good cause.

Any objections filed shall specify the portions of the Report and Recommendation objected to, and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based, in whole or in part, upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs.

A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof. As noted above, this period is not extended by virtue of Fed. R. Civ. P. 6(d) if served on you by electronic means, such as via the Court's CM/ECF filing system. If, however, this Report and Recommendation was served upon you by mail, this deadline is extended to **SEVENTEEN DAYS** by application of Fed. R. Civ. P. 6(d).

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).